



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,706	12/27/2001	Sherrie L. Woodring	87264.3061	9242
21834	7590	03/21/2006		
BECK AND TYSVER P.L.L.C. 2900 THOMAS AVENUE SOUTH SUITE 100 MINNEAPOLIS, MN 55416			EXAMINER	
			BLAIR, DOUGLAS B	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/026,706	WOODRING, SHERRIE L.	
	Examiner Douglas B. Blair	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 December 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-14,16,17 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5-14,16,17 and 21-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Amendment

1. Claims 1-3, 5-14, 16-17 and 21-24 are currently pending in this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The term "10 percent of the optical energy" in claims 8 and 10 is a relative term which renders the claim indefinite. The term "10 percent of the optical energy" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The specification provides no guidance or even a mention of how 10 percent of the optical energy is reflected or any means for measuring the amount of energy reflected.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5-6, 11-14, 16-17, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,381,642 to O'Donnell et al. in view of U.S. Patent Number 6,721,862 to Grant et al..

7. As to claim 1, O'Donnell teaches a probe system for monitoring a network, comprising: a plurality of devices on the network; one or more switches (col. 4, lines 19-26); a probe (col. 4, lines 63-67); a plurality of ports providing two-way transmission of data between two of said devices (col. 4, lines 53-62); a mechanism for monitoring all of the transmitted data to the probe continuously (col. 4, lines 53-62); and an analysis device, connected to the probe, that performs an integrated analysis of the data received by the probe from all mirrored ports and takes action in response to the analysis (col. 4, lines 30-39); however O'Donnell does not explicitly teach the mirroring the data at each port but rather O'Donnell teaches monitoring the data.

Grant teaches a system for monitoring a network comprising a plurality of mirrored ports, each mirrored port contained in a switch and providing two-way transmission of data between two devices and a mechanism mirroring all such transmitted data to the probe continuously (col. 7, lines 61-col. 8, line 8 and Figure 3, the data replicator).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of O'Donnell regarding the monitoring of a network with the teachings of Grant regarding data mirroring at a port because though O'Donnell does not explicitly mention data mirroring, the data collected at each individual port is monitored in its entirety before analysis, thus suggesting mirroring.

8. As to claim 2, O'Donnell teaches a probe system for a storage area network (Figure 1 features a RAID arrangement).

9. As to claim 3, O'Donnell teaches the storage are network including Fibre Channel architecture (col. 1, lines 8-13).

10. As to claims 5 and 6, O'Donnell teaches a probe that is a device that features both hardware and software components.

11. As to claim 11, Grant teaches a probe system wherein said mechanism is an external Fibre Channel patch panel that replicates data for a given Fibre Channel port to said probe (in the case of Grant the probe is for backup).

12. As to claim 12, Grant teaches a probe system wherein said mechanism accomplishes an internal replication of data within a switch to a probe (Figure 3).

13. As to claim 13, Grant teaches a probe system wherein said mechanism accomplishes an internal replication of data within a director to said probe (Figure 3).

14. Claims 14 and 16-17 are obviated for reasons pointed out in the rejection of claim 1, above.

15. As to claims 22, O'Donnell teaches the performance of the integrated analysis requiring examination of the content of the data being transmitted between devices (col. 4, lines 30-39).

16. As to claim 23, O'Donnell teaches the performance of the integrated analysis requiring data from a plurality of ports to be mirrored continuously (col. 4, lines 30-39).

17. As to claims 21 and 24, these limitations do not appear to be described in the specification so it is concluded that their omission from the specification is an implicit admission of their obviousness.

Art Unit: 2142

18. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,381,642 to O'Donnell et al. in view of U.S. Patent Number 6,721,862 to Grant et al. in view of U.S. Patent Number 6,735,636 to Mokry et al..

19. As to claims 7 and 9, the O'Donnell-Grant combination teaches the probe system of claim 1; however the O'Donnell-Grant combination does not explicitly teach the reflection of optical energy.

Mokry teaches a mechanism for reflecting optical energy on the transmission and reception sides of a port (col. 10, lines 10-28).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the O'Donnell-Grant combination regarding the probing of a network port with the teachings of Mokry regarding the reflection of optical energy because optical communication links commonly occur in storage systems.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 2142

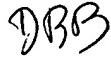
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

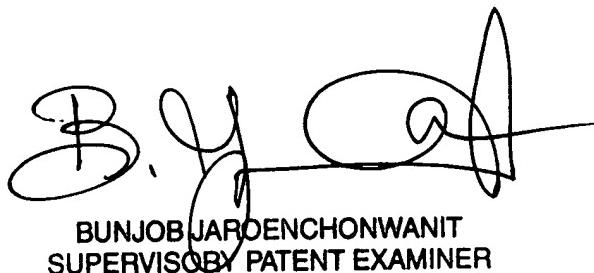
21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is 571-272-3893. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas Blair





BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER